

## Hill's Gridlock Left Health Issues Unaddressed

### Inaction Will Cost Patients and Care Providers as Medical Costs Rise, Both Sides in Debate Agree

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When the 107th Congress ended last month, lawmakers had rejected virtually every significant health care proposal they had considered during the past two years, including efforts to expand insurance, better protect patients and curb the nation's medical expenditures.

The health legislation came from across the ideological spectrum and included causes to which President Bush lent direct support: top-tier priorities such as prescription drug coverage for the elderly and quieter administration goals such as insurance tax credits, enhanced mental health benefits and larger subsidies for children's insurance and Medicare HMOs.

The lengthy list of bills left unpassed -- from patients' rights to generic medicines to changes in medical malpractice law -- reflects an environment in which the parties are polarized,

Congress is closely divided and the agenda has been focused on a few core issues, largely the economy and national security.

Although they disagree about how to strengthen the health care system, liberals and conservatives say Congress's inaction will have a corrosive effect on states, employers, health care professionals and patients, particularly when medical inflation is soaring and more people -- 41 million at last count -- are becoming uninsured.

Asked who would be hurt, an administration official replied: "All Americans."

The parties and their allies in interest groups trade blame for the stalemate. The GOP attempts to demonize Senate Democratic leader Thomas A. Daschle (S.D.); Democrats fault Bush.

"We had a whole set of proposals out there . . . but where this all bogged down is in the Senate," the administration official said. Bush's aides also note that they have made significant changes to health care administratively. They include controversial rules governing the confidentiality of patient records and strategies to give states more freedom in using health subsidies.

On the other side, Ron Pollack, executive director of Families USA, a liberal health care lobby, said: "The fact the president signaled these were not issues of urgency and priority facilitated partisanship and bickering and no results."

Whether health legislation will accelerate in the next Congress, when the GOP will control the House and the Senate, is a matter of dispute. Many Republicans predict a smoother legislative path, but policy analysts from both parties note that the Senate majority will be slim and that the budget may have less room for health proposals, which often are expensive.

Chris Jennings, who was senior health policy adviser to President Bill Clinton, said: "I do believe the president is going to make health care a priority. They want to rack up some achievements. The question is whether they can produce policy that can attract any type of bipartisan support."

During the Congress that just concluded, some legislative failures involved high-profile issues that have been intractable for years. Republicans and Democrats moved closer in their longstanding efforts to define federal protections for patients in managed-care plans, but the parties did not resolve a central dispute: how much power patients should have to sue health plans that they believe stinted on care.

In other instances, legislation faltered, even though it appeared to have had ample support in both chambers. Perhaps the most dramatic such legislative collapse involved the Children's Health Insurance Program, a federal-state venture to help families in which the parents are working but relatively poor. The proposed legislation would have rewritten a rule and allowed states to keep about \$2.7 billion in CHIP subsidies that they had not spent but might need in the future.

After months of negotiations, a compromise materialized the night of Nov. 14, the last day the full House met. Already endorsed by all 50 governors, the agreement was backed by the chairmen and ranking minority members of the House and Senate committees that handle CHIP, the program's original Senate authors and the White House.

But at 12:30 a.m., the deal came to the attention of House Budget Committee Chairman Jim Nussle (R-Iowa), and by 2 a.m., he had balked, saying there was no authority for the rule change in the budget, a committee spokeswoman said.

Proponents of the compromise were furious, according to congressional sources. The compromise, they reasoned, would not require spending any new money, but would prevent the federal treasury from reclaiming money that had been given to the states -- an idea that Bush had endorsed. Iowa Sen. Charles E. Grassley (R) and Gov. Tom Vilsack (D) called Nussle but did not reach him. So did Thomas A. Scully, a Health and Human Services administrator who oversees CHIP.

In the end, the agreement did not pass either the House or the Senate. "This was an honest-to-God, last-minute, good-faith compromise. It sort of unraveled at the last minute," said Ken Johnson, spokesman for House Energy and Commerce Committee Chairman W.J. "Billy" Tauzin (R-La.), one of the deal's architects.

Payments to doctors, hospitals, nursing homes and health plans were another late-session defeat and a window into the politics of health care. "The whole raft of 'provider give-backs' looked certain 60 days ago. You'd be hard-pressed to find any member of Congress that isn't sympathetic," said Robert L. Laszewski, an independent health policy analyst.

The American Medical Association, in particular, had mounted a massive lobbying campaign during Congress's final weeks, trying to prevent a 4 percent reduction in payments to physicians under Medicare, the federal insurance for people 65 and older. The AMA called the cut, scheduled to take effect early next year, a "mistake." The Bush administration agreed.

The House had agreed to enlarge such subsidies last summer as part of a bill it adopted to offer prescription drug coverage to Medicare patients. But the Senate, which defeated three prescription drug bills this year, objected. Senators said it was unfair to help doctors without also helping other kinds of care providers -- and senators said it was unreasonable to help any providers of care without providing elderly Americans relief from the cost of their medicine.

"There were plenty of votes for provider relief, but there was never an opportunity to take a clean vote on it because it got caught in larger politics," said Charles N. Kahn III, president of the Federation of American Hospitals.

Despite such a fractious climate, lawmakers enacted two pieces of legislation in the past several months -- both on low-wattage issues that are important to specific groups. One measure will attempt to ease a nursing shortage by promoting the profession and providing scholarships for training. The other will provide tax credits for a relatively small group of workers who lose their jobs because of competition from foreign imports.

The White House was encouraged, in particular, by the tax credits -- created as part of a larger trade bill. Nevertheless, the president's aides say that such victories were rare exceptions to a long list of measures that passed the House and stalled in the Senate.

Administration officials cite the House's passage of a broader program of tax credits for people who want to buy their own insurance, an expanded system of "medical savings accounts" and a conservative strategy to help small businesses join forces to negotiate lower insurance prices.

Democrats counter with bills that received support -- although not floor votes -- in the Senate but were barely considered in the House. These include attempts to make it easier for parents to join their children in getting coverage through CHIP and for the parents of disabled children to remain eligible for Medicaid while earning higher incomes.

The Senate adopted plans to try to reduce the price of medicine by fostering greater use of generic alternatives to brand-name drugs and by allowing consumers to reimport drugs that were manufactured in the United States then sold in Canada, which regulates the price of medicine. A Senate committee approved a plan that temporarily would have given states more help in paying for Medicaid, the public insurance program for the poor that is straining many states' budgets.

The chambers' dueling lists of bills, in part, reflect the ideological differences that divide the parties. Democrats tend to favor health care approaches that rely on public insurance programs; the GOP tends to favor reliance on the private marketplace. But the differences weren't always that wide. In the end, said Laszewski, the policy analyst: "The biggest problem is people are just exhausted. . . . It's like they aren't touching anything. They are just going home."